

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MMAS RESEARCH, LLC,

Plaintiff,

vs.

THE CHILDREN'S HOSPITAL
CORPORATION, et al.,

Defendants

Civ. A. No. 1:24-cv-12108-DJC

HOSPITAL DEFENDANTS' RESPONSE TO MOTION TO DISMISS

Dr. Morisky and Morisky Medication Adherence Research LLC (“MMAR”) have moved to dismiss for lack of personal jurisdiction. They filed their motion without seeking to confer with counsel for the Hospital Defendants. *See* L.R. 7.1. The motion is not aimed at the Hospital Defendants, so they take no position on it. And the Hospital Defendants expect that for the reasons given in their motion to dismiss and discussed at the recent hearing, all of the plaintiff’s claims against the Hospital Defendants will be dismissed for failure to state a claim.

But if any claim against the Hospital Defendants survives, the Hospital Defendants may decide to bring a cross-claim against Dr. Morisky and MMAR on a tortious interference theory or a similar theory. The Hospital Defendants find themselves embroiled in the dispute between Dr. Morisky and Trubow because the Hospital changed the text regarding attribution of the MMAS-8 assessment on a government website after receiving threatening correspondence from Dr. Morisky’s lawyers. If Morisky and MMAR moved to dismiss such a claim for lack of personal jurisdiction, the Hospital would argue that cases such as *Astro-Med, Inc. v. Nihon*

Kohden America, Inc., 591 F.3d 1, 9-11 (1st Cir. 2009), clearly support the exercise of jurisdiction.

Therefore, while the Hospital Defendants take no position on the pending motion, they ask the Court to make it clear, if it decides to grant the motion, that its decision does not preclude the Hospital Defendants from arguing later that the Court has jurisdiction over Dr. Morisky and MMAR with respect to the Hospital Defendants' potential cross-claim.

Respectfully submitted,

THE CHILDREN'S HOSPITAL
CORPORATION, DR. JACOB HARTZ,
and HANNAH PALFREY

By their attorney:

/s/Theodore J. Folkman

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